

## Bureau of Land Management, Interior

## § 3422.3-2

REGISTER and in a newspaper(s) of general circulation in the county or equivalent political subdivision in which the tracts to be sold are situated. The newspaper notice shall be published not less than once a week for 3 consecutive weeks. BLM will post notice of the sale in BLM State Office where the coal lands are managed. BLM will also mail notice to any surface owner of lands noticed for sale and to any other person who has requested notice of sales in the area. The lease sale shall not be held until at least 30 days after such posting in the State Office.

(b) The notice shall:

(1) List the time and place of sale, the type of sale, bidding method, rental, and the description of the tract(s) being offered and the minimum bid(s) to be considered;

(2) Contain a description of the coal resources to be offered; and

(3) Contain information on where a detailed statement of the terms and conditions of the lease(s) which may result from the lease sale may be obtained.

(c) The detailed statement of the terms and conditions of the lease(s) offered and bidding instructions for sale shall:

(1) Contain an explanation of the manner in which the bids may be submitted;

(2) Contain a warning to all bidders concerning 18 U.S.C. 1860, which prohibits unlawful combination or intimidation of bidders;

(3) Specify that the Secretary reserves the right to reject any and all bids and the right to offer the lease to the next highest qualified bidder if the successful bidder fails to obtain the lease for any reason;

(4) Contain a notice that each bid shall be accompanied by the bidder's qualifications (See 43 CFR 3472.2-2);

(5) Contain a notice to bidders that the winning bidders shall have to submit the information required by the Attorney General for post-sale review (See 43 CFR 3422.3-4);

(6) If appropriate, contain (i) a copy of any written qualified surface owner consent, including purchase price, financial obligations and terms and conditions, filed and verified prior to the posting of the notice of lease sale in

the appropriate Bureau of Land Management State office; or (ii) a listing of lands for which qualified surface owner consent is required prior to lease sale but has not yet been filed, along with a statement that any consent for those lands filed prior to the deadline for such filings shall be made a part of the official file and shall be available for inspection by the public;

(7) If appropriate, contain a notice that bidders shall file a statement that all information they hold relevant to written consents affecting any area offered in the sale in which the bid is submitted has been filed with the proper Bureau of Land Management State office (43 CFR subpart 1821) in accordance with the provisions of subpart 3427 of this title;

(8) Contain a copy of the proposed lease, including all terms and special stipulations; and

(9) Contain any other information deemed appropriate by the authorized officer.

(d) Each successful bidder, if any, shall reimburse the United States for a proportionate share of the cost of publishing the notice of sale as a condition of lease issuance.

[44 FR 42615, July 19, 1979. Redesignated and amended at 47 FR 33140, July 30, 1982; 64 FR 52243, Sept. 28, 1999]

### § 3422.3 Sale procedures.

#### § 3422.3-1 Bidding systems.

(a) The provisions of 10 CFR part 378<sup>1</sup> are not applicable to this part.

(b) The Department may conduct lease sales using cash bonus—fixed royalty bidding systems or any other bidding system adopted through rule-making procedures.

[47 FR 33140, July 30, 1982]

#### § 3422.3-2 Conduct of sale.

(a)(1) Sealed bids shall be received only until the hour on the date specified in the notice of competitive leasing; all sealed bids submitted after that hour shall be returned. The authorized officer shall read all sealed bids, and shall announce the highest bid.

<sup>1</sup>Redesignated as 30 CFR part 260 and removed at 48 FR 1182, Jan. 11, 1983.

(2) No decision to accept or reject the high bid will be made at the time of sale.

(b) A sale panel shall convene to determine: (1) If the high bid was properly submitted; (2) if it reflects the FMV of the tract; and (3) whether the bidder is qualified to hold the lease. The recommendations of the panel shall be in writing and sent to the authorized officer who shall make the final decision to accept a bid or reject all bids. The sale panel's recommendation and the authorized officer's written decision shall be entered in the case file for the offered tract. The successful bidder shall be notified in writing. The Department reserves the right to reject any and all bids regardless of the amount offered, and shall not accept any bid that is less than fair market value. The authorized officer shall notify any bidder whose bid has been rejected and include in such notice a statement of the reason for the rejection. The Department reserves the right to offer the lease to the next highest qualified bidder if the successful bidder fails to execute the lease, or is for any reason disqualified from receiving the lease.

(c) Each sealed bid shall be accompanied by a certified check, cashier's check, bank draft, money order, certificate of bidding rights, personal check or cash for one-fifth of the amount of the bonus, and a qualifications statement over the bidder's own signature with respect to citizenship and interests held, as prescribed in § 3472.2-2 of this title.

[44 FR 42615, July 19, 1979. Redesignated and amended at 47 FR 33140, July 30, 1982]

**§ 3422.3-3 Unsurveyed lands.**

If the land is unsurveyed, the successful bidder shall not be given notice to comply with the requirements of § 3422.4 of this title for lease issuance until the land has been surveyed as provided in § 3471.1-2 of this title.

**§ 3422.3-4 Consultation with the Attorney General.**

(a) Subsequent to a lease sale, but prior to issuing a lease, the authorized officer shall require the successful bidder to submit on a form or in a format approved by the Attorney General in-

formation relating to the bidder's coal holdings to the authorized officer for transmittal to the Attorney General. Upon receipt of the information, the authorized officer shall notify the Attorney General of the proposed lease issuance, the name of the successful bidder and terms of the proposed lease sale and shall transmit the bidder's statement on coal holdings. A description of the information required by the Attorney General and the form or format for submission of the information may be obtained from the authorized officer.

(b) Where a successful bidder has previously submitted the currently required information, a reference to the date of submission and to the serial number of the record in which it is filed, together with a statement of any and all changes in holdings since the date of the previous submission, shall be accepted.

(c) The authorized officer shall not issue a lease until 30 days after the Attorney General receives the notice and statement of the successful bidder's coal holdings, or the Attorney General notifies the Director that lease issuance would not create or maintain a situation inconsistent with the antitrust laws, whichever comes first. The Attorney General shall inform the successful bidders and simultaneously, the authorized officer, if the successful bidder's statement of coal holdings is incomplete or inadequate, and shall specify what information is required for the Attorney General to complete his review. The 30 day period shall stop running on the date of such notification and not resume running until the Attorney General receives the supplemental information.

(d) The authorized officer shall not issue the lease to the successful bidder, if, during the 30 day period, the Attorney General notifies the Director that the lease issuance would create or maintain a situation inconsistent with antitrust law, except after complying with paragraph (e)(2) of this section.

(e) If the Attorney General notifies the Director that a lease should not be issued, the authorized officer may:

(1) Reject all bids or may notify the Attorney General in accordance with paragraph (a) of this section that